

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**TRANSMITTAL
FORM**

(to be used for all correspondence after initial filing)

TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	09/684,017	
	Filing Date	01/08/2001	
	First Named Inventor	James F. Zucherman	
	Art Unit	3731	
	Examiner Name	Julian W. Woo	
Total Number of Pages in This Submission	44	Attorney Docket Number	KLYC-01000USN

ENCLOSURES (Check all that apply)

<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input checked="" type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance communication to Technology Center (TC) <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please Identify below): Comments on Statement of Reasons for Allowance; Submission of Formal Drawings Transmittal Letter
Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Michael L. Robbins Fliesler Meyer LLP	Customer Number: 23910
Signature		Reg. No.: 54,774
Date	6/22/04	

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.			
Typed or printed name	Michael L. Robbins		
Signature		Date	6/22/04

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application

Inventors: Zucherman, et al.

Appl. No.: 09/684,017

Confirm. No.: 9622

Filed: January 8, 2001

Title: SPINE DISTRACTION IMPLANT AND
METHOD

PATENT APPLICATION

Art Unit: 3731

Examiner: Julian W. Woo

Customer No. 23910

CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8

I hereby certify that this correspondence is being deposited in the United States Postal Service with sufficient postage as first class mail in an envelope addressed to **Mail Stop ISSUE FEE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450**, on June 22, 2004.

(Signature)

Michael L. Robbins, Reg. No. 54,774

Signature Date: June 22, 2004

**COMMENTS ON STATEMENT OF REASONS FOR ALLOWANCE
UNDER 37 C.F.R. § 1.104(e)**

Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This COMMENTS ON STATEMENT OF REASONS FOR ALLOWANCE is in reply to the Notice of Allowance and Fee(s) Due mailed April 15, 2004.

Remarks


These Remarks are in reply to the Notice of Allowance and Fee(s) Due mailed April 15, 2004 in the above-identified patent application.

We appreciate the Examiner's indication that the pending claims are allowed. Applicant seeks to clarify the Examiner's comments. The Examiner states that "none of the prior art of record, alone or in combination, discloses a method of stabilizing a spinous process relative to another spinous process, where the method includes introducing between the processes a device having a sealable cavity that is fillable with material and introducing a device with shape memory or a flexible implant and allowing it to self-conform or assume the shape of at least one of the spinous processes or an implanted shape and distract the processes; where the implanted shape is assumed at a threshold temperature or at a different temperature." See *Notice of Allowance*, page 2. Applicants would like to make clear that the features described by the Examiner, are only features of those claims where such feature is explicitly recited. For example, claim 12 calls only for a flexible implant which self-conforms upon implantation.

It is respectfully submitted that none of the above remarks affects the allowability of the claims, and payment of the Issue Fee is included herewith. The Commissioner is authorized to charge any underpayment or credit any overpayment to Deposit Account No. 06-1325 for any matter in connection with this response, including any fee for extension of time, which may be required.

° Respectfully submitted,

Date: 6/22/04

By: 
Michael L. Robbins
Reg. No. 54,774

Customer No. 23910
FLIESLER MEYER LLP
Four Embarcadero Center, Fourth Floor
San Francisco, California 94111-4156
Telephone: (415) 362-3800



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application

Inventors: Zucherman, et al.

Appl. No.: 09/684,017

Confirm. No.: 9622

Filed: January 8, 2001

Title: SPINE DISTRACTION IMPLANT AND
METHOD

PATENT APPLICATION

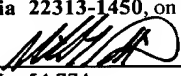
Art Unit: 3731

Examiner: Julian W. Woo

Customer No. 23910

CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8

I hereby certify that this correspondence is being deposited in the United States Postal Service with sufficient postage as first class mail in an envelope addressed to **Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450**, on June 22, 2004.



Michael L. Robbins, Reg. No. 54,774
Signature Date: June 22, 2004

(Attorney Signature)

SUBMISSION OF FORMAL DRAWINGS TRANSMITTAL LETTER

Official Draftsperson
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

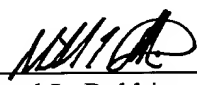
Sir:

Enclosed are 37 sheets of formal drawings for the above-identified patent application as required by the Notice of Allowance dated April 15, 2004.

Subject to the Examiner's approval, please substitute the enclosed drawings for the drawings previously submitted.

Respectfully submitted,

Date: 6/22/04

By: _____

Michael L. Robbins
Reg. No. 54,774

Customer No. 23910
FLIESLER MEYER LLP
Four Embarcadero Center, Fourth Floor
San Francisco, California 94111-4156
Telephone (415) 362-3800